

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JENNIFER BARON,

Plaintiff,

v.

DISCOVER BANK,

Defendant.

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CIVIL ACTION NO.: _____

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NOTICE OF REMOVAL

Defendant Discover Bank (“Discover”), by its undersigned counsel, Ballard Spahr LLP, hereby provides notice pursuant to 28 U.S.C. §§ 1441 and 1446 of the removal of the above-captioned case from the Luzerne County Court of Common Pleas to the United States District Court for the Middle District of Pennsylvania. As grounds for removal, Discover states as follows:

Background

1. On or about January 23, 2020, Plaintiff Jennifer Baron (“Plaintiff”) filed a Complaint in the Luzerne County Court of Common Pleas (the “Complaint”). A true and correct copy of the Complaint is attached as Exhibit A.

2. Plaintiff’s Complaint alleges a cause of action under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.*

3. On January 29, 2020 Plaintiff served Discover with process.

4. Discover has not yet answered, moved, or otherwise responded to the Complaint in the State Court Action.

Federal Question Jurisdiction

5. This Court has original jurisdiction under 28 U.S.C. § 1331 as Plaintiff alleges violations of a claim or right arising under the laws of the United States.

6. Specifically, Plaintiff's Complaint alleges, *inter alia*, violations of the TCPA.

7. Therefore, this action is subject to removal pursuant to 28 U.S.C. §§ 1331, 1441, and 1446 at the request of Discover, because Plaintiff's claims arise under the laws of the United States.

Venue

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) and 1446(a) because the United States District Court for the Middle District of Pennsylvania embraces the place where this action is pending, the Luzerne County Court of Common Pleas.

Procedural Compliance

9. Removal of this action is timely. 28 U.S.C. § 1446(b)(1) provides that, "[t]he notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based[.]" This Notice of Removal is being filed with the United States District Court for the Middle District of Pennsylvania within thirty (30) days after Discover first received notice of the filing of the Complaint.

10. Discover attaches to this Notice of Removal as Exhibit A, and incorporates by reference, a copy of Plaintiff's Complaint. The Complaint is the only form of "process, pleadings or orders" obtained by Discover in this action. *See* 28 U.S.C. § 1446(a).

11. Discover is serving contemporaneously with this filing a copy of this Notice of Removal upon Plaintiff. Discover will also file with the Clerk for the Luzerne County Court of Common Pleas a Notice of Filing of Notice of Removal, as required by 28 U.S.C. § 1446(d).

12. By filing a Notice of Removal in this matter, Discover does not waive its right to object to service of process, the sufficiency of process, jurisdiction over the person, or venue. No admission of fact, law, or liability is intended by this Notice, and Discover specifically reserves the right to assert any defenses and/or objections to which it may be entitled.

13. Based upon the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, and this action is properly removed to this Court.

WHEREFORE, Discover Bank hereby gives notice that the above-captioned action, currently pending in the Luzerne County Court of Common Pleas, is hereby removed to this Court.

Respectfully submitted,

BALLARD SPAHR LLP

Dated: February 5, 2020

/s/ Daniel JT McKenna

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